

**STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION**

<b>Implementation of Renewables Portfolio</b>	<b>)</b>	<b>Docket No. 03-RPS-1078</b>
<b>Standard Legislation (Public Utilities Code</b>	<b>)</b>	<b>RPS Proceeding</b>
<b>Sections 381, 383.5, 399.11 through 399.15, and</b>	<b>)</b>	
<b>445; [SB 1038], [SB 1078])</b>	<b>)</b>	<b>Business Meeting</b>

**COMMENTS OF BIOMASS FACILITIES  
ON THE FINAL COMMITTEE REPORT  
ON PHASE I RPS IMPLEMENTATION ISSUES**

These comments are filed on behalf of the so-called “Orphan Biomass Facilities” (hereinafter “Orphan Facilities”), four biomass facilities whose contracts expire on June 30, 2003 and will thereafter shut down their power generation and be lost to the State’s renewable energy portfolio.<sup>1</sup> These facilities have participated in Staff Workshops on Eligibility Issues and submitted written comments on the Phase I topic issues in this proceeding on the Renewables Portfolio Standard (RPS). In these comments, we support the joint comments of CalWEA and TURN regarding the interpretation of “incremental geothermal” and urge the Commission to make appropriate changes to the Renewables Committee’s Final Report on Phase I Implementation Issues (“Committee Report”).

The Orphan Facilities support the Committee’s decision that:

- energy from existing geothermal facilities is to be counted toward the baseline, except for energy that the Commission determines to be “incremental”; and
- “incremental” geothermal is limited to capital expenditures associated with new or replaced generation capacity or increased water injections, and that it exclude investments that would have been done in the normal course of business (however, we believe that one modification must be made to the eligibility criteria adopted by the Committee, as indicated below).

We agree with CalWEA and TURN, however, that a modification related to these issues is essential in order to ensure that SB 1078 and SB 1038 achieve a steady increase in the renewable energy physically serving California – goals that we believe were

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<sup>1</sup> The facilities are Madera Power, LLC, Sierra Power Corp., Dinuba Energy, and Sierra Pacific Industries (Sonora).

intended by the Legislature. For these purposes we adopt both the reasoning and recommendation regarding the definition of “incremental geothermal” contained in the CalWEA/TURN comments.

The Orphan Facilities are of course a poster child for the policy issues discussed in the CalWEA/TURN comments. Although they bid into the Transitional Procurement process, 195 of 200 MW purchased by PG&E, and another 200 MW purchased by SCE, were geothermal, displacing any chance for competitive bidding by most other renewable sources. While The Geysers production will inevitably decline, leaving the State with unmet RPS needs, truly renewable and sustainable technologies like biomass and wind will either go out of business or never go online, hardly the result envisioned by the Administration or the Legislature in the enactment of SB 1078.

The Orphan Facilities ask for one other modification to the Committee Report. Although the Report acknowledges that interpretation of “incremental geothermal” for purposes of the PUC’s Transitional Procurement is up to the PUC, it contains unfortunate remarks about the possible meaning of the term in that context that are neither necessary to the Report nor appropriate in view of the separation of jurisdictions. We therefore ask that that language be removed.

Thank you for considering our views.

Respectfully submitted,

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